

Food and Nutrition Service, USDA

§ 247.23

granted when the local agency's application to participate is denied, when participation is terminated, when a contract is not renewed by the State agency or when any other adverse action which affects participation is taken. The adverse action shall be postponed until a hearing decision is reached.

(b) *Procedure.* The State agency hearing procedure shall at a minimum provide the local agency:

(1) Adequate advance notice of the time and place of the hearing to provide all parties involved sufficient time to prepare for the hearing;

(2) The opportunity to present its case;

(3) The opportunity to confront and cross-examine adverse witnesses;

(4) The opportunity to be represented by counsel, if desired;

(5) The opportunity to review the case record prior to the hearing;

(6) An impartial decision maker, whose decision as to the validity of the State or local agency's action shall rest solely on the evidence presented at the hearing and the statutory and regulatory provisions governing the Program. The basis for the decision shall be stated in writing, although it need not amount to a full opinion or contain formal finding of fact and conclusions of law; and

(7) Written notification of the decision concerning the appeal, within 60 days from the date of the request for a hearing.

§ 247.23 Miscellaneous provisions.

(a) *No aid reduction.* The value of benefits or assistance available under the Program shall not be considered as income to or resources of participants or their families for any purpose under Federal, State or local laws, including, but not limited to, laws relating to taxation, welfare and public assistance programs.

(b) *Statistical information.* FNS reserves the right to use information obtained under the Program in a summary, statistical or other form which does not identify particular individuals. FNS may require the State or local agencies to supply data and other information collected under the Program in a form that does not identify

particular individuals, to enable the Secretary or the State agencies to evaluate the effect of food intervention upon low-income individuals determined to be eligible for Program benefits.

(c) *Confidentiality.* Each State agency shall restrict the use or disclosure of information obtained from Program applicants or participants to persons directly connected with the administration or enforcement of the Program.

(d) *Public information.* Any person who wishes information, assistance, records or other public material shall request such information from the State agency, or from the FNS Regional Office serving the appropriate State as listed below:

(1) Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont:

U.S. Department of Agriculture, FNS, New England Region, 33 North Avenue, Burlington, Massachusetts 01803.

(2) Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, West Virginia:

U.S. Department of Agriculture, FNS, Mid-Atlantic Region, One Vahlsing Center, Robbinsville, New Jersey 08691.

(3) Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee:

U.S. Department of Agriculture, FNS, Southeast Region, 1100 Spring Street, NW, Atlanta, Georgia 30309.

(4) Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin:

U.S. Department of Agriculture, FNS, Midwest Region, 536 South Clark Street, Chicago, Illinois 60605.

(5) Arkansas, Louisiana, New Mexico, Oklahoma, Texas:

U.S. Department of Agriculture, FNS, Southwest Region, 1100 Commerce Street, Room 5-C-30, Dallas, Texas 75242.

(6) Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, Wyoming:

U.S. Department of Agriculture, FNS, Mountain Plains Region, 2420 West 26th Avenue, Room 430-D, Denver, Colorado 80211.

(7) Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Trust Territory of the Pacific Islands, Washington:

U.S. Department of Agriculture, FNS, Western Region, 550 Kearney Street, Room 400, San Francisco, California 94108.

PART 248—WIC FARMERS' MARKET NUTRITION PROGRAM (FMNP)

Subpart A—General

Sec.

- 248.1 General purpose and scope.
- 248.2 Definitions.
- 248.3 Administration.

Subpart B—State Agency Eligibility

- 248.4 State Plan.
- 248.5 Selection of new State agencies.

Subpart C—Recipient Eligibility

- 248.6 Recipient eligibility.
- 248.7 Nondiscrimination.

Subpart D—Recipient Benefits

- 248.8 Level of benefits and eligible foods.
- 248.9 Nutrition education.

Subpart E—State Agency Provisions

- 248.10 Coupon and market management.
- 248.11 Financial management system.
- 248.12 FMNP costs.
- 248.13 FMNP income.
- 248.14 Distribution of funds.
- 248.15 Closeout procedures.
- 248.16 Administrative appeal of State agency decisions.

Subpart F—Monitoring and Review of State Agencies

- 248.17 Management evaluations and reviews.
- 248.18 Audits.
- 248.19 Investigations.

Subpart G—Miscellaneous Provisions

- 248.20 Claims and penalties.
- 248.21 Procurement and property management.
- 248.22 Nonprocurement debarment/suspension, drug-free workplace, and lobbying restrictions.
- 248.23 Records and reports.
- 248.24 Other provisions.
- 248.25 FMNP information.
- 248.26 OMB control number.

AUTHORITY: 42 U.S.C. 1786.

SOURCE: 59 FR 11517, Mar. 11, 1994, unless otherwise noted.

Subpart A—General

§ 248.1 General purpose and scope.

This part announces regulations under which the Secretary of Agriculture shall carry out the WIC Farmers' Market Nutrition Program. The dual purposes of the FMNP are:

(a) To provide resources in the form of fresh, nutritious, unprepared foods (fruits and vegetables) from farmers' markets to women, infants, and children who are nutritionally at risk and who are participating in the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) or are on the waiting list for the WIC Program; and

(b) To expand the awareness, use of and sales at farmers' markets.

This will be accomplished through payment of cash grants to approved State agencies which administer the FMNP and deliver benefits at no cost to eligible persons. The FMNP shall be supplementary to the food stamp program carried out under the Food Stamp Act of 1977 (7 U.S.C. 2011 *et seq.*) and to any other Federal or State program under which foods are distributed to needy families in lieu of food stamps.

§ 248.2 Definitions.

For the purpose of this part and all contracts, guidelines, instructions, forms and other documents related hereto, the term:

Administrative costs means those direct and indirect costs, exclusive of food costs, as defined in § 248.12(b), which State agencies determine to be necessary to support FMNP operations. Administrative costs include, but are not limited to, the costs of administration, start-up, training, monitoring, auditing, the development of and accountability for coupon and market management, nutrition education, outreach, eligibility determination, and developing, printing, and distributing coupons.

Compliance buy means a covert, on-site investigation in which a FMNP